

AO 120 (Rev. 2/99)

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Northern District of California on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. CV 10-04645 JL	DATE FILED 10/14/10	U.S. DISTRICT COURT Northern District of California, San Francisco Division
PLAINTIFF INTERWOVEN, INC.		DEFENDANT VERTICAL COMPUTER SOFTWARE, INC.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 6,826,744		
2 7,716,629		
3		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Richard W. Wisking	(BY) DEPUTY CLERK Gloria Alevedo	DATE October 18, 2010
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Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

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ADR

E-FILING

8 ATTORNEYS FOR PLAINTIFF
9 INTERWOVEN, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CV 10- 4645 JL
Civil Case No.:

12 INTERWOVEN, INC.,

13 Plaintiff,

14 vs.

15 VERTICAL COMPUTER SYSTEMS, INC.

16 Defendant.

COMPLAINT FOR DECLARATORY
JUDGMENT

JURY DEMAND

1 Plaintiff Interwoven, Inc. ("Interwoven") for its Complaint against Defendant Vertical
2 Computer Systems, Inc. ("Vertical"), alleges:

3 **NATURE OF THE ACTION**

4 I This is an action for declaratory judgment of invalidity , unenforceability
5 and non-infringement of United States Patent Nos. 6,826,744 ("the '744 patent") (attached hereto
6 as Exhibit A) and 7,716,629 (the "the '629 patent") (attached hereto as Exhibit B), pursuant to the
7 Declaratory Judgment Act, 28 U.S.C. §§2201-02, and the patent laws of the United States, 35
8 U.S.C. § 100 *et seq.*, and for such other relief as the Court deems just and proper.

9 **THE PARTIES**

10 2 Plaintiff Interwoven is a corporation duly organized and existing under the
11 laws of the State of Delaware. Interwoven is registered to do business in California and has a
12 principal place of business at 160 East Tasman Drive, San Jose, CA 95134.

13 3 Upon information and belief, Defendant Vertical is a Delaware corporation
14 with a principal place of business at 101 W. Renner Road, Suite 300, Richardson, TX 75082.
15 Upon information and belief, Vertical's agent of service is Vcorp Services, LLC, and is located at
16 10101 Fondren Road, Suite 515, Houston, TX 77096.

17 **EXISTENCE OF AN ACTUAL CONTROVERSY**

18 4 There is an actual controversy within the jurisdiction of this Court under 28
19 U.S.C. §§2201 and 2202.

20 5 Vertical purports to be the owner of all rights, title and interest in and to the
21 '744 patent and the '629 patent (collectively, "patents-in-suit").

22 6 On or about January 12, 2009, Vertical contacted Interwoven, Inc.
23 ("Interwoven"), taking the position that the '744 patent contains claims that it believes "cover"
24 Interwoven's "TeamSite Team XM2, TeamSite Server and TeamSite Live Lite Content
25 Publishing Server products."

26 7 On or about August 12, 2010, Vertical contacted Interwoven taking the
27 position that the claims of the '744 patent "cover" Interwoven's TeamSite 2006 product. It also
28

1 took the position that the '629 patent that issued on May 11, 2010, entitled "System and Method
2 for Generating Web Sites in an Arbitrary Object Framework," which issued to Vertical from a
3 continuation of the application for the '744 patent, "covers" the TeamSite 2006 product.

4 8 Based upon the above facts, there is an actual and justiciable controversy
5 within the jurisdiction of this Court under 28 U.S.C. §§ 2201 and 2202.

6 **JURISDICTION AND VENUE**

7 9 Plaintiff files this complaint against Vertical pursuant to the patent laws of
8 the United States, Title 35 of the United States Code, with a specific remedy sought based upon
9 the laws authorizing actions for declaratory judgment in the federal courts of the United States, 28
10 U.S.C. §§ 2201 and 2202.

11 10 This Court has subject matter jurisdiction over this action, which arises
12 under the patent laws of the United States, pursuant to 28 U.S.C. §§ 1331, 1338(a), and 2201.

13 11 Venue in this District is proper under 28 U.S.C. §§ 1391 and 1400.

14 12 All of the communications described above were sent to Interwoven at its
15 offices in the Northern District of California.

16 13 In addition to Vertical's directing its allegation of infringement to
17 Interwoven (and its successors-in-interest) at its offices in the Northern District of California, on
18 information and belief, Vertical has repeated, ongoing, extensive, and deliberate contacts with
19 California:

20 A From 2000 through at least mid-2004, Vertical was based in California at
21 6336 Wilshire Boulevard, Los Angeles, CA 90048.

22 B Vertical maintains a registered agent for service of process in California.
23 William Kenneth Mills of 865 South Figueroa Street, Suite 3200, Los Angeles, CA 90017 who
24 has been a director of Vertical since December 2000 and is listed as Vertical's agent for service of
25 process in California.

26 C Based on publicly available information, Vertical is actively acquiring the
27 business and assets of California companies. On May 21, 2010, Vertical Healthcare Solutions,
28

1 Inc., a company wholly-owned by Vertical, purchased the business and substantially all the assets
2 of Pelican Applications, LLC, a California Limited Liability Company.

3 D Based on publicly available information, Vertical has two California-based
4 subsidiaries. Vertical Internet Solutions, Inc. and Pointmail.com, Inc. that are California
5 corporations, and are wholly-owned subsidiaries of Vertical.

6 E Based on publicly available information, Vertical has a royalty interest in
7 TranStar, based in Claremont, CA. TranStar is a systems integrator and consulting firm. Vertical
8 is entitled to receive 3% of any transaction fees generated by TranStar in perpetuity.

9 F Based on publicly available information, Vertical also has a distribution
10 agreement with TranStar, based in Claremont, CA to market Vertical's products.

11 G Vertical maintains a website (www.vcsy.com) that advertises its products,
12 including SiteFlash, ResponseFlash, emPath, and Emily Solutions. These products are the subject
13 of the distribution agreement with TranStar, outlined above, based on publicly available
14 information. The website solicits both customers, through its product and service advertisements
15 and investors, through its investor relations section. It further provides contact information for
16 Vertical for both customers and investors and an interactive form for submitting questions
17 including for residents of California.

18 **FIRST CLAIM**

19 **DECLARATORY JUDGMENT REGARDING THE '774 PATENT**

20 14 The Plaintiff hereby restates and realleges the allegations set forth in
21 paragraphs 1 through 13 and incorporates them by reference.

22 15 No valid, and enforceable, claim of the '744 patent is infringed by the
23 Plaintiff.

24 **SECOND CLAIM**

25 **DECLARATORY JUDGMENT REGARDING THE '629 PATENT**

26 16 The Plaintiff hereby restates and realleges the allegations set forth in
27 paragraphs 1 through 15 and incorporates them by reference.

17 No valid and enforceable claim of the '629 patent is infringed by Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays for judgment as follows:

18 Declaring that no valid, and enforceable, claim of the patents-in-suit is
19 infringed by Plaintiff;

19 Declaring that Vertical and each of its officers, employees, agents, alter
egos, attorneys, and any persons in active concert or participation with them be restrained and
enjoined from further prosecuting or instituting any action against the Plaintiff claiming that the
patents-in-suit are valid, enforceable, or infringed, or from representing that the products or
services of the Plaintiff infringe the patents-in-suit;

20 A judgment declaring this case exceptional under 35 U.S.C. § 285 and
awarding Plaintiff its attorneys' fees and costs in connection with this case;

21 Awarding Plaintiff such other and further relief as the Court deems just and
proper.

Dated: October 14, 2010

Respectfully submitted,

By: 

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